



Attorneys At Law

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June 3, 2021

VIA ECF

Honorable Loretta Preska
United States District Judge
Daniel Patrick Moynihan U.S. Courthouse
500 Pearl Street
New York, New York 10007

RE: *Chevron v. Donziger*, Case No. 19 Cr. 561 (LAP)

Dear Judge Preska:

You have had a long and distinguished career on the federal bench. You have earned the respect of judges, lawyers and other members of your community. You have repeatedly been honored by high public officials. The defense therefore moves for recusal under 28 U.S.C. § 455 and for dismissal of all charges against Mr. Donziger before any more public judicial resources are wasted in service to Chevron's private agenda.

To ensure the record is clear, here are some of the problems:

This Court has abandoned its duties to the public to create a powerful protective wall for Chevron. The evidence adduced at trial has proven that this Court must recuse itself and that this Chevron prosecution, by Chevron-selected judges and a Chevron prosecutor, must be dismissed. The court's personal involvement with the Chevron private prosecutor—who deliberately withheld evidence on a variety of factual issues regarding her secret communications with Judge Kaplan and the Chevron lawyers—is an appalling display of misconduct.

The Court said it had no valid discoverable evidence relating to its appointment or the appointment of the Chevron prosecutor, Rita Glavin. The Court had a monopoly on the ability to get this discoverable evidence, but then blocked every attempt by the defense to produce facts that would support our claim of an unconstitutional and illegal private corporate prosecution.

The Chevron prosecutor was in court for days, twenty feet away from Your Honor. The Court could have asked the admittedly unsupervised Chevron prosecutor a whole host of questions which would have shed light on the mystery of who, if anyone, supervises these inferior officers acting in the name and with the powers of the government of the United States. The Chevron

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prosecutor, previously criticized by a federal appeals court in the Senator Stevens case for withholding information critical to the defense, did the same thing here and sat mute.

The Chevron prosecutor in this case refused to submit any factual affidavits on the critical issues presented related to the violation of Mr. Donziger's rights. This Court, faced with allegations of its own impropriety, also refused our request that it submit proof including a factual affidavit on the Constitutional issue. We previously argued that the Court has shown a remarkable reluctance to investigate the facts of what was obviously a Chevron-orchestrated and Chevron-financed prosecution — the first corporate prosecution in U.S. history.

The proof at trial showed the Court's active involvement in the suppression of evidence and facts. Geoffrey Berman, United States Attorney for the Southern District of New York, refused to prosecute Mr. Donziger even knowing all the pertinent facts regarding Judge Kaplan's charges. Mr. Berman was fired by William Barr and Donald Trump for, amongst other misdemeanors, allegedly not pursuing Trump's enemies and not protecting Trump's friends. Rudolph Giuliani, whose law firm was described as one of the most important lobbyist firms for the oil and gas industry, was one of those Trump allegedly protected.

We do know that Donald Trump received great support from the oil and gas industry, including massive support for his presidential campaign, his inauguration party, and those efforts that led to the January 6, 2021 events in Washington D.C. We do not know if one of the reasons for Mr. Berman's firing was his refusal to prosecute Chevron's demonized enemy, Steven Donziger. We have been precluded from finding out. If this actually happened, it would invalidate any conviction.

Prior to trial, the defense made allegations that there has never been a case like this in the entire history of the United States. The trial has shown this to be true, and it is now undisputed. The proof has shown that Chevron hand-picked Judge Kaplan to preside over the Civil RICO trial, and that he hand-picked Your Honor and the private prosecutors. The proof has also shown the vast amount of money that Chevron has spent on this prosecution, and these factors, taken together, require recusal and dismissal.

The elephant in the room, the Chevron prosecutor who remained silent in the face of legitimate questions regarding who supervises her and the nature of her contacts with Judge Kaplan, looms larger and larger. The nonspeaking Chevron prosecutor, with the Courts' acquiescence, suffocates justice. This court is knowingly participating, joining in, creating, and permitting an unconstitutional conviction for the benefit of Chevron. We believe this Court, after this trial, should immediately recuse itself. What was apparent before trial has sadly become even more clear now.

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I request oral argument. Of course, that is in your discretion. Both you and the appellate court are entitled to hear from the thus far silent prosecutor on these issues.

Respectfully,

/s

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